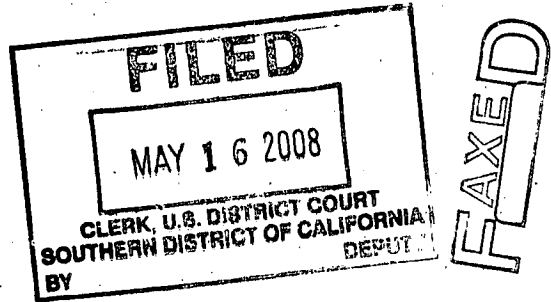


ORIGINAL

1 Richard C. Moreno (SBN 190869)
rmoreno@murchisonlaw.com
2 Anastasia K. Mazzella (SBN 245201)
amazzella@murchisonlaw.com
3 **MURCHISON & CUMMING, LLP**
801 South Grand Avenue, 9th Floor
4 Los Angeles, California 90017-4613
Telephone: (213) 623-7400
5 Facsimile: (213) 623-6336

6 Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
7 and served herein as DOE 1



8
9 UNITED STATE DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 '08 CV 0879 W WMC

12 ROLAND NATOLI and BARBARA
NATOLI individuals,

13 Plaintiffs,

14 vs.

15 TIFFIN MOTOR HOMES, INC., and
16 DOES 1-100, inclusive,

17 Defendants.

CASE NO.

**CERTIFICATE OF SERVICE OF
NOTICE TO ADVERSE PARTY AND
NOTICE TO STATE SUPERIOR
COURT OF REMOVAL TO
FEDERAL COURT**

[28 U.S.C. § 1441(a) and (b)]
(Diversity)

[Filed Concurrently With Notice of
Joinder and Notice of Removal]

18 I, ANASTASIA K. MAZZELLA , do hereby declare:
19
20
21

22 1. I am an attorney at law duly licensed to practice before all the courts of the
23 State of California and am admitted to practice before the United States District Court for
24 the Southern District of California. I am an associate with the law firm of Murchison &
25 Cumming, LLP, attorneys of record for defendant FREIGHTLINER CUSTOM CHASSIS
26 CORPORATION in this action. My business address is 801 South Grand Avenue, 9th
27
28

1 Floor, Los Angeles, California, where the mailing and service described below took place.
2 I have personal knowledge of the following facts and if called as a witness, would testify
3 competently thereto.

4 2. On May 16, 2008, pursuant to 28 U.S.C. § 1446(d), my office filed with the
5 Clerk of the Superior Court, County of San Diego, a Notice to Superior Court Clerk of
6 Filing Removal of Action, together with a copy of the Notice of Removal of Civil Action
7 to United States District Court and Notice of Joinder. A true and correct copy of the
8 Notice to Superior Court Clerk of Filing Removal of Action is attached to this Certificate.

9 3. On May 16, 2008, my office deposited in the U.S. Mail at Los Angeles,
10 California, with postage fully prepaid, a copy of the Notice to Adverse Party of Removal
11 to the United States District Court and Notice of Joinder. The Notice to Adverse Party
12 was dated May 16, 2008. A true and correct copy of the Notice to Adverse Party is
13 attached to this Certificate.

14 I declare under penalty of perjury that the foregoing is true and correct and that I am
15 employed in the office of a member of the bar of this court at whose direction the service
16 was made.

17 Executed May 16, 2008, at Los Angeles, California.

18
19 
20 _____
Anastasia K. Mazzella, Declarant

21 J:\RCM28430\MTN\NOT.REMOVAL.CERT.SERVICE
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1 Richard C. Moreno (SBN 190869)
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10 Attorneys for Defendant, FREIGHTLINER
11 CUSTOM CHASSIS CORPORATION, sued
12 and served herein as DOE. 1

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ROLAND NATOLI and BARBARA
NATOLI individuals,

Plaintiffs,

vs.

TIFFIN MOTOR HOMES, INC., and
DOES 1-100, inclusive,

Defendants.

CASE NO. 37-2007-00082477-CU-MC-
CTL

**NOTICE TO SUPERIOR COURT CLERK
OF FILING OF REMOVAL OF ACTION**

[28 U.S.C. § 1441(a)]

Assigned to Hon. William R. Nevitt, Jr.,
Dept. C-64

Action Filed: November 29, 2007
Trial Date: None Set

TO THE CLERK OF THE SUPERIOR COURT, COUNTY OF SAN DIEGO:

PLEASE TAKE NOTICE that on May 16, 2008, defendant FREIGHTLINER
CUSTOM CHASSIS CORPORATION, filed in the United States District Court for the
Southern District of California its Notice of Removal of Action to said United States District
Court and Notice of Joinder thereto. A true and correct copy of the Notice of Removal and
Notice of Joinder are attached hereto as **Exhibit A**. The documents listed as Exhibits A
and B in the Notice of Removal are part of the Court's file in this matter.

///

1 **PLEASE TAKE FURTHER NOTICE** that pursuant to 28 U.S.C. § 1446, the filing of
2 the Notice of Removal with the United States District Court, together with the filing of a copy
3 of said Notice with this court, effects the removal of this action and the above-captioned
4 court may proceed no further unless and until the case is remanded.

5
6 DATED: May 16, 2008

MURCHISON & CUMMING, LLP

7
8 By: 

Richard C. Moreno
Anastasia K. Mazzella
Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
and served herein as DOE 1

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12 J:\RCM\28430\MTN\NOT-REMOVAL.SUP.CT.

EXHIBIT "A"

05-15-'08 10:47 FROM-GOGGLAW

949-753-0265

T-190 P002/004 F-048

1 Richard C. Moreno (SBN 190869)
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6 Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
7 and served herein as DOE 1

8
9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11
12 ROLAND NATOLI and BARBARA
13 NATOLI individuals,

14 Plaintiffs,

15 vs.

16 TIFFIN MOTOR HOMES, INC., and
DOES 1-100, inclusive,

17 Defendants.

CASE NO.

**NOTICE OF JOINDER IN NOTICE
OF REMOVAL OF ACTION**

[28 U.S.C. § 1441(a) and (b)]

(Diversity)

**[Filed Concurrently With Notice of
Removal and Notice of Interested
Parties]**

18
19
20 PLEASE TAKE NOTICE that defendant TIFFIN MOTOR HOMES, INC.
21 hereby joins in defendant FREIGHTLINER CUSTOM CHASSIS CORPORATION'S
22 Notice of Removal of the state court action described in said Notice of Removal.

23 DATED: May 15, 2008

Respectfully submitted,

24 **GATES, O'DOHERTY, GONTER, & GUY**

25
26 By: 

Matthew M. Proudfoot
Attorneys for Defendant, TIFFIN MOTOR
HOME, INC.

1 DATED: May 15, 2008

MURCHISON & CUMMING, LLP

2
3 By: 

4 Richard C. Moreno
5 Anastasia K. Mazzella
6 Attorneys for Defendant, FREIGHTLINER
7 CUSTOM CHASSIS CORPORATION, sued
8 and served herein as DOE 1.
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 South Grand Avenue, 9th Floor, Los Angeles, California 90017-4613.

On May 16, 2008, I served true copies of the following document(s) described as **NOTICE OF JOINDER IN NOTICE OF REMOVAL OF ACTION** on the interested parties in this action as follows:

SEE ATTACHED LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Murchison & Cumming's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 16, 2008, at Los Angeles, California.


Marian R. Wahlquist

SERVICE LIST**Natoli, et al., vs. Tiffin Motor Homes, Inc., etc., et al.**

Douglas C. Sohn, Esq.

Attorneys for Plaintiffs

Sohn & Associates

110 West C Street, Suite 1300

San Diego, CA 92101

Telephone: 619-237-7646

Facsimile: 858-484-3365

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6 Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
7 and served herein as DOE 1

8
9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11

12 ROLAND NATOLI and BARBARA
NATOLI individuals,

13 Plaintiffs,

14 vs.

15 TIFFIN MOTOR HOMES, INC., and
16 DOES 1-100, inclusive,

17 Defendants.

CASE NO.

**NOTICE TO UNITED STATES
DISTRICT COURT CLERK OF
REMOVAL OF ACTION; DEMAND
FOR JURY TRIAL**

[28 U.S.C. § 1441(a) and (b)]
(Diversity)

**[Filed Concurrently With Notice of
Joinder and Notice of Interested
Parties]**

18
19
20
21 PLEASE TAKE NOTICE that defendant FREIGHTLINER CUSTOM CHASSIS
22 CORPORATION (hereinafter referred to as "FREIGHTLINER") hereby removes to this
23 Court the state action described below:

24 1. On November 29, 2007, plaintiffs ROLAND NATOLI and BARBARA
25 NATOLI ("plaintiffs") commenced an action in the Superior Court of the State of
26 California, County of San Diego, entitled Roland Natoli and Barbara Natoli v. Tiffin
27 Motor Homes, Inc. and Does 1 through 100, inclusive, Case No. 37-2007-00082477-CU-
28 MC-CTL.

1 2. On or about December 7, 2007, plaintiffs served defendant TIFFIN MOTOR
2 HOMES, INC. ("TIFFIN") with Summons and Complaint.

3 3. In March of 2008, plaintiffs filed a First Amended Complaint.

4 4. On or about March 17, 2008, plaintiffs filed an Amendment to Complaint
5 designating FREIGHTLINER as "DOE 1." However, plaintiffs did not serve
6 FREIGHTLINER with the DOE Amendment until April 22, 2008.

7 5. On or about April 22, 2008, plaintiffs served FREIGHTLINER with
8 Summons, the DOE Amendment, and the First Amended Complaint. True and correct
9 copies of the Summons, DOE Amendment, and First Amended Complaint are attached
10 hereto and incorporated by reference herein as **Exhibit A**.

11 6. FREIGHTLINER filed an Answer to the First Amended Complaint on May
12 16, 2008 in the above-entitled state court action. A true and correct copy of the Answer is
13 attached hereto and incorporated by reference herein as **Exhibit B**.

14 7. This action is a civil action over which this Court has original jurisdiction
15 under 28 U.S.C. §1332, in that it is a civil action between citizens of different states and
16 the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest
17 and costs. Therefore, pursuant to the provisions of 28 U.S.C. §1441(a), FREIGHTLINER
18 may remove this action to this court.

19 8. Diversity is established when an action "is between citizens of different
20 States." 28 U.S.C. § 1332(a)(1). Pursuant to 28 U.S.C. § 1332(c)(1), "a corporation shall
21 be deemed to be a citizen of any State by which it has been incorporated and of the State
22 where it has its principal place of business." 28 U.S.C. §1332(c)(1).

23 9. At all times relevant to this action and removal, plaintiffs have been citizens
24 of California.

25 10. At all times relevant to this action and removal, corporate defendant TIFFIN
26 has been a citizen of Alabama. TIFFIN was incorporated in Alabama in 1991 and its
27 principal place of business is Alabama. TIFFIN's manufacturing plant and home office
28 are located in Alabama. TIFFIN conducts the bulk of its business and is most noticeably

1 present in Alabama. TIFFIN has joined in this Notice of Removal of Action as indicated
2 in the Notice of Joinder filed concurrently herewith.

3 11. At all time relevant to this action and removal, corporate defendant and
4 removing party FREIGHTLINER has been a citizen of Delaware (state of incorporation)
5 and South Carolina (principal place of business). FREIGHTLINER was incorporated in
6 the state of Delaware in 1995. FREIGHTLINER's manufacturing plant, corporate office,
7 employees, officers, directors, and bank accounts are located in South Carolina.
8 FREIGHTLINER conducts the bulk of its business and is most noticeably present in
9 South Carolina.

10 12. Plaintiffs have not named or served any other defendants in this action, nor
11 have any other defendants appeared in this action to date. The remaining "DOE"
12 defendants are wholly fictitious and sham parties against whom no relief is, or could be,
13 sought in this action. Pursuant to 28 U.S.C. § 1441(a), this Court should disregard the
14 citizenship of any defendant sued under this fictitious name.

15 13. It is apparent from the face of the First Amended Complaint that plaintiffs
16 seek recovery of an amount in excess of \$75,000.00, exclusive of costs and interests.
17 Plaintiffs allege they purchased a motor vehicle that suffered from nonconformities which
18 substantially impaired its use. As a result of said nonconformities, plaintiffs seek
19 replacement of the vehicle or restitution in the following amounts: (1) down payment of
20 \$13, 500; (2) trade-in of \$4, 900; (3) payments in the total amount of \$18, 107.04 as of
21 December 2007 and continuing at the rate of \$1, 131. 69 per month; (4) registration fees in
22 the amount of \$1, 048; and (5) pay off of the loan on the vehicle in the amount of \$165,
23 490.11. Plaintiffs also seek civil penalties available under the California Song-Beverly
24 Act, Civil Code § 1790 et seq. and attorney's fees. (See Plaintiffs' First Amended
25 Complaint, ¶ 10, attached hereto as Exhibit A.)

26 14. FREIGHTLINER has, therefore, met its burden of showing a reasonable
27 probability that the amount in controversy satisfies the federal jurisdictional amount.

28 ///

EXHIBIT "A"

ON FIRST
SUMMONS AMENDED COMPLAINT
 (CITACION JUDICIAL)

NOTICE TO DEFENDANT:
 (AVISO AL DEMANDADO):

TIFFIN MOTOR HOMES, INC., a Corporation, and DOES 1 through 100,
 inclusive

YOU ARE BEING SUED BY PLAINTIFF:
 (LO ESTÁ DEMANDANDO EL DEMANDANTE):
 ROLAND NATOLI and BARBARA NATOLI

RECEIVED SUM-100

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

APR 22 2008

MAR 16 2008

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
 (El nombre y dirección de la corte es):

San Diego Superior Court, Central Division
 330 W. Broadway
 San Diego, CA 92101

CASE NUMBER: 37-2007-00082477-
 (Número del Caso) CU-MC-CTT.

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
 Douglas C. Sohn, SOHN & ASSOCIATES, 619-237-7646
 110 W. C Street, Suite 1300, San Diego, CA 92101

DATE:

(Fecha) MAR 16 2008

Clerk, by _____
 (Secretario)

Deputy
 (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

SEAL

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☒ on behalf of (specify): FREIGHTLINER CUSTOM CHASSIS CORP.
 under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date):

Page 1 of 1

| | | |
|---|--------------------------------------|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): Douglas C. Sohn SBN 82920 SOHN & ASSOCIATES 110 W. C Street, Suite 1300 San Diego, CA 92101 TELEPHONE NO.: 619-237-7646 FAX NO.: 858-759-4299 ATTORNEY FOR (Name): Plaintiffs ROLAND NATOLI and BARBARA NATOLI | | FOR COURT USE ONLY FILED CIVIL BUSINESS OFFICE 14 CENTRAL DIVISION 08 MAR 17 PM 2:54 CLERK-SUPERIOR COURT SAN DIEGO COUNTY, CA |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input checked="" type="checkbox"/> HALL OF JUSTICE, 330 W BROADWAY, SAN DIEGO, CA 92101-3827 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081-6643 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5649 | | |
| PLAINTIFF(S) ROLAND NATOLI and BARBARA NATOLI | JUDGE: William R. Nevitt, Jr. | |
| DEFENDANT(S) TIFFIN MOTOR HOMES, INC., et al. | DEPT: C-64 | |
| AMENDMENT TO COMPLAINT (CCP 473, 474) | | CASE NUMBER 37-2007-00082477-CU-MC-CTL |

Under Section 474, Code of Civil Procedure:

FICTITIOUS NAME (Court order required once case is at issue. San Diego Superior Court Rules, Division I, rule 2.10)

Plaintiff(s), being ignorant of the true name of a defendant when the complaint in the above-named case was filed, and having designated said defendant in the complaint by the fictitious name of

DOE I

and having discovered the true name of the said defendant to be

FREIGHTLINER CUSTOM CHASSIS CORP.

amends the complaint by inserting such true name in place and stead of such fictitious name wherever it appears in said complaint.

Date: March 12, 2008


DOUGLAS C. SOHN

Attorney(s) for Plaintiff(s)

Under Section 473, Code of Civil Procedure:

NAME - Add or Correct (Court order required)

Plaintiff(s), having designated a ☒ defendant ☐ plaintiff in the complaint by the name of

and having discovered ☐ said name to be incorrect and the correct name is ☐ defendant also uses the name of

amends the complaint by ☐ substituting ☐ adding such name(s) wherever the name of

appears in said complaint.

Date: _____

Attorney(s) for Plaintiff(s)

ORDER

The above amendment to the complaint is allowed.

Date: _____

Judge of the Superior Court

1 Law Offices
2 **Sohn & Associates**
3 Douglas C. Sohn
4 State Bar No. 82920
5 110 West C Street, Suite 1300
6 San Diego, California 92101
7 (619) 237-7646
8 (858) 484-3365 Fax
9 Attorney for Plaintiffs

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO**

10 **ROLAND NATOLI and BARBARA**
11 **NATOLI,**

12 Plaintiffs,

13 v.

14 **TIFFIN MOTOR HOMES, INC., a**
15 **Corporation, and DOES 1 through 100,**
16 **inclusive,**

17 Defendants.

) **CASE NO: 37-2007-00082477-CU-MC-CTL**

) Judge: William R. Nevitt, Jr.

) Dept. C-64

) Complaint Filed: November 29, 2007

) **FIRST AMENDED COMPLAINT FOR**
) **RESTITUTION AND DAMAGES (Song-**
) **Beverly)**

) **JURY TRIAL DEMANDED**

18 **FIRST CAUSE OF ACTION**
19 **SONG-BEVERLY ACT**
20 **(All Defendants)**

21 **PLAINTIFFS ALLEGE:**

22 1. Plaintiffs ROLAND NATOLI and BARBARA NATOLI (hereinafter "Plaintiffs")
23 are, and at all times mentioned herein were, married individuals and buyers or lessees of a
24 consumer good or new motor vehicle as defined in Civil Code Section 1790 et seq..

25 2. Defendant TIFFIN MOTOR HOMES, INC. (hereinafter "Defendant TIFFIN") is,
26 and at all times mentioned herein was, a corporation qualified to do business in, and doing
27 business in, the State of California, and a manufacturer or distributor of consumer goods as
28 defined in Civil Code Section 1790 et seq..

3. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein as

Law Offices
Sohn &
Associates
110 West C St
Suite 1300
San Diego, CA 92101
(619) 237-7646

Does 1 through 100 and therefore sue said Defendants by such fictitious names. Plaintiffs will seek leave of court to amend this Complaint to allege their true names and capacities when the same becomes known to them. Plaintiffs are informed and believe and thereupon allege that each of said fictitiously named Defendants is responsible in some manner for Plaintiffs' damages as herein alleged.

4. Plaintiffs are informed and believe and thereupon allege that each of the defendants named herein was the agent or employee of each of the other defendants named herein and in doing those things herein alleged was acting within the course and scope of said agency or employment.

5. On or about August 3, 2006, Plaintiffs purchased a 2006 Allegro Bay Recreational Vehicle, VIN 4UZACLBW26CX60514, manufactured or distributed by Defendant TIFFIN (hereinafter "the Vehicle") for which Defendant TIFFIN made one or more express warranties. The Vehicle was a consumer good or new motor vehicle, as defined in Civil Code 1790 et seq.. Attached hereto, for reference only, and marked "Exhibit A" is one of said express warranties.

6. Sometime after purchase, and within the warranty period, the Vehicle began to suffer from nonconformities which substantially impaired the use, value, or safety of the new motor vehicle to Plaintiffs. The nonconformities (hereinafter "the nonconformities") include, but are not limited to, the following: defective leveler jack, defective slideouts, defective engine, defective turbo hose clamp, defective DVD player, defective carpet, defective doors, defective vents, defective tow harness, defective wall paneling, defective radio, defective shower, defective windows, defective chassis charge air cooler.

7. Each of the foregoing defects was covered by one or more express warranties made by Defendant TIFFIN, including, but not limited to, Exhibit A.

8. Within the past four years, Plaintiffs delivered the Vehicle to Defendant TIFFIN's service and repair facility within the County of San Diego, for service or repair of the nonconformities.

9. Despite a reasonable number of attempts, and despite more than 30 days out of service, Defendant TIFFIN's service and repair facility has been unable to service or repair the

Law Office
Sohn &
Associates
110 West C St
Suite 1300
San Diego, CA 92101
(619) 237-7646

1 Vehicle to conform to the express warranty or warranties given by Defendant TIFFIN.

2 10. As a result, Plaintiffs are entitled to replacement of the Vehicle, or restitution, in the
3 following amounts: down payment of \$13,500, trade-in of \$4,900, payments in the total amount
4 of \$18,107.04 as of December, 2007 and continuing at the rate of \$1,131.69 per month, 2008
5 registration in the amount of \$1,048.00 and continuing annually, and pay off of the loan on the
6 Vehicle in the approximate amount of \$165,490.11. Plaintiffs will amend this complaint to
7 allege said amounts more particularly when they become known to them, or according to proof
8 at the time of trial.

9 11. As a further result, Plaintiffs have incurred incidental damages in an amount as yet
10 unascertained. Plaintiffs will amend this complaint to allege said amount when it becomes
11 known to them, or according to proof at the time of trial.

12 12. As a further result, Plaintiffs have incurred consequential damages in an amount as
13 yet unascertained. Plaintiffs will amend this complaint to allege said amount when it becomes
14 known to them, or according to proof at the time of trial.

15 13. Defendant TIFFIN willfully failed to promptly repurchase or replace the Vehicle
16 when request was made therefor, and Plaintiffs are entitled thereby to a civil penalty in the
17 amount of twice Plaintiffs' actual damages.

18 14. Plaintiffs have incurred attorney's fees and costs in bringing the within action
19 pursuant to Civil Code Section 1790 et seq., in amount as yet unascertained. Plaintiffs will
20 amend this complaint to allege said amount when it becomes known to them, or according to
21 proof at the time of trial.

22 WHEREFORE, Plaintiffs pray judgment against Defendants, and each of them, as
23 follows:

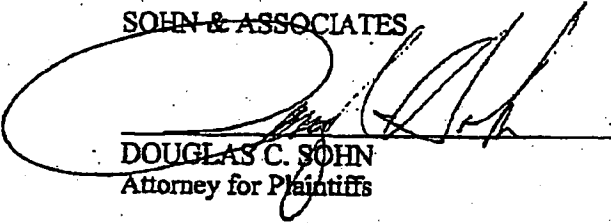
- 24 1. Replacement of the Vehicle or restitution;
- 25 2. Incidental damages according to proof;
- 26 3. Consequential damages according to proof;
- 27 4. Civil penalty;
- 28 5. Attorney's fees;

Law Offices
Sohn &
Associates
110 West C St
Suite 1300
San Diego, CA 92101
(619) 237-7646

- 1 6. Costs of suit;
- 2 7. Pre-judgment and post-judgment interest at the lawful rate; and,
- 3 8. Such other and further relief as the Court may deem just and proper.

4
5 DATED: March 5, 2008

SOHN & ASSOCIATES

6
7 
8 DOUGLAS C. SOHN
Attorney for Plaintiffs
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PART I. NEW VEHICLE BASIC WARRANTY

1. COVERAGE TO PURCHASER. This limited warranty (Limited Warranty) applies to the first purchaser (Purchaser) and does not apply to an owner other than the Purchaser. This Limited Warranty also does not apply to any rental or leased unit, or to any unit used in whole or in part for a commercial purpose.

2. WARRANTY PERIOD AND REMEDIES. Tiffin Motorhomes, Inc. (Tiffin) warrants that the portions of the vehicle which Tiffin manufactures or assembles shall be free from defect (Defect) in material and workmanship for the period beginning on the date of purchase and continuing for one (1) year from the date of purchase, or twelve thousand (12,000) miles, whichever occurs first (the Warranty Period). The date of purchase shall be the date that the vehicle is delivered to you.

In the event of a covered Defect during the Warranty Period, Tiffin will repair the defect or, at its option, replace parts as necessary at no charge to Purchaser, except for the items which are specifically excluded below. These are Purchaser's sole and exclusive remedies. This Limited Warranty applies only to the covered portion of the vehicle and any of its parts supplied or manufactured by Tiffin, which are defective at the time of purchase or become defective during normal use during the Warranty Period. The Defect must occur under normal use of the vehicle during the Warranty Period.

This warranty does not apply to items and parts not manufactured or supplied by Tiffin, nor to items purchased, manufactured or installed outside the Tiffin's factory. Except as provided in this Warranty, the entire risk as to the quality and performance of the vehicle is with the Purchaser.

3. ITEMS COVERED. This warranty covers the steel or aluminum frame super structure including wall paneling, decor board, headliner, foam insulation, fiberglass skin, rubber roof, and all other parts of the Hydra-Vac walls and roof. This warranty also covers the following list of equipment, some of which may also come with warranties from their respective manufacturers:

| | |
|------------------------|------------------------|
| Air Conditioner (dash) | Water Heater |
| Air Conditioner (roof) | Carpet |
| T.V. Antenna | Cushion Foam |
| Converter (110-12V) | Compartment Doors |
| Water Pump | Driver/Passenger Seats |
| Furnace | Electrical Systems |
| L.P. Gas Bottle | Cushion Fabric |
| Power Range Hood | Fire Extinguisher |
| Pre-finished Paneling | Faucets |
| Range | Light Fixtures |
| Refrigerator | Plumbing System |
| Sink | Switches |
| Stereo | Shower Door |
| Vacuum Cleaner | Vinyl |
| Showerhead | Sealants |
| L.P. Gas Valves | Windows |
| Interior and Exterior | Fuses |
| Toilet | |

1 **PROOF OF SERVICE BY MAIL**

2

3 I declare that I am employed in the County of San Diego, State of California, that I am

4 over the age of eighteen years and not a party to the within action, and that my business address

5 is 110 W. C Street, Suite 1300, San Diego, CA 92101.

6 I am readily familiar with the firm's practice of collection and processing of

7 correspondence for mailing with the United States Postal Service. Under that practice, it

8 would, in the ordinary course of business, be deposited, with first class postage fully prepaid

9 thereon, with the United States Postal Service that same day pursuant to Code of Civil

10 Procedure Section 1013a. I am aware that on a motion of party served, service is presumed

11 invalid if postal cancellation date or postage meter date is more than one day after date of

12 deposit for mailing affidavit.

13 On March 5, 2008, I served the foregoing FIRST AMENDED COMPLAINT FOR

14 RESTITUTION AND DAMAGES on the interested parties in this action by placing a true copy

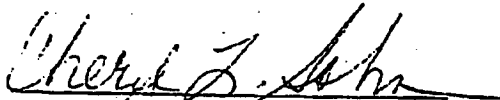
15 thereof, enclosed in a sealed envelope, addressed as follows, for collection and mailing on that

16 date, following ordinary business practices:

17 Matthew M. Proudfoot, Esq.
 18 GATES, O'DOHERTY, GONTER & GUY
 19 15635 Alton Parkway, Suite 260
 Irvine, CA 92618

20 I declare under penalty of perjury that the foregoing is true and correct.

21 Executed this 5th day of March, 2008, at San Diego, California.

22 
 23 CHERYL L. SOHN
 24

25

26

27 Law Offices
 Sohn &
 Associates
 110 West C St
 Suite 1300
 San Diego, CA 92101
 (619) 237-7646

28

EXHIBIT B

1 Richard C. Moreno (SBN 190869)
Anastasia K. Mazzella (SBN 245201)
2 **MURCHISON & CUMMING, LLP**
801 South Grand Avenue, 9th Floor
3 Los Angeles, California 90017-4613
Telephone: (213) 623-7400
4 Facsimile: (213) 623-6336
E-Mail: rmoreno@murchisonlaw.com
5 amazzella@murchisonlaw.com

6 Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
7 and served herein as DOE 1

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10
11 ROLAND NATOLI and BARBARA
NATOLI individuals,

12 Plaintiffs,

13 vs.

14 TIFFIN MOTOR HOMES, INC., and
15 DOES 1-100, inclusive,

16 Defendants.

CASE NO. 37-2007-00082477-CU-MC-
CTL

ANSWER TO FIRST AMENDED
COMPLAINT ON BEHALF OF
FREIGHTLINER CUSTOM CHASSIS
CORPORATION

Assigned to Hon. William R. Nevitt, Jr.,
Dept. C-64

Action Filed: November 29, 2007
Trial Date: None Set

17
18
19 Defendant FREIGHTLINER CUSTOM CHASSIS CORPORATION, for itself and itself
20 alone, in answer to plaintiffs' First Amended Complaint ("Complaint") on file herein, admits,
21 denies and alleges as follows:

22 **GENERAL DENIAL**

23 1. By virtue of and pursuant to the provisions of Code of Civil Procedure section
24 431.30, this answering defendant generally and specifically denies each and every, all and
25 singular, conjunctively and disjunctively, allegation contained in said Complaint, and each and
26 every part thereof, and each and every cause of action thereof, and further specifically denies
27 that plaintiff has been injured or damaged in the sum alleged, or in any other sum, or at all, by
28 reason of any carelessness, negligence, act or omission of this answering defendant.

1 FIRST AFFIRMATIVE DEFENSE

2 2. As a first and separate affirmative defense to the complaint, this answering
3 defendant alleges that each cause of action is barred by the applicable statute of limitations.

4 SECOND AFFIRMATIVE DEFENSE

5 3. As a second and separate affirmative defense to the complaint, this answering
6 defendant alleges that each of the causes of action fails to set forth facts sufficient to constitute
7 a cause of action against this answering defendant.

8 THIRD AFFIRMATIVE DEFENSE

9 4. As a third and separate affirmative defense to the complaint, this answering
10 defendant alleges that plaintiffs are barred from proceeding with said causes of action for failure
11 to provide the requisite notice to defendant regarding their warranty claims.

12 FOURTH AFFIRMATIVE DEFENSE

13 5. As a fourth and separate affirmative defense to the complaint, this answering
14 defendant alleges that plaintiffs lack standing to sue and are not in privity with defendant.

15 FIFTH AFFIRMATIVE DEFENSE

16 6. As a fifth and separate affirmative defense to the complaint, this answering
17 defendant alleges that plaintiffs and/or their agents acted negligently, recklessly, or intentionally
18 in and about the matters alleged herein and to the extent that plaintiffs seek recovery for the
19 alleged negligence, reckless and/or intentional acts and/or omissions of this answering
20 defendant, recovery should be offset to the extent of plaintiffs' own negligent, reckless, and/or
21 intentional actions and/or omissions.

22 SIXTH AFFIRMATIVE DEFENSE

23 7. As a sixth and separate affirmative defense to the complaint, this answering
24 defendant alleges that plaintiffs' damages, if any, were proximately caused by the negligent,
25 reckless, or intentional acts of third parties as to whom this answering defendant had neither
26 the right nor the duty nor the opportunity to exercise control and who acted without the
27 knowledge, participation, approval, or ratification of this answering defendant.

28 ///

1 **SEVENTH AFFIRMATIVE DEFENSE**

2 8. As a seventh and separate affirmative defense to the complaint, this answering
3 defendant alleges that plaintiffs are guilty of unreasonable delay in filing suit herein, which delay
4 has caused prejudice to this answering defendant and that, therefore, this action is barred by
5 laches.

6 **EIGHTH AFFIRMATIVE DEFENSE**

7 9. As an eighth and separate affirmative defense to the complaint, this answering
8 defendant alleges that plaintiffs are barred from asserting each and every purported cause of
9 action in the complaint by reason of plaintiffs and their agents having ratified, consented, and
10 approved the alleged wrongful acts and/or omissions of this answering defendant.

11 **NINTH AFFIRMATIVE DEFENSE**

12 10. As a ninth and separate affirmative defense to the complaint, this answering
13 defendant alleges that plaintiffs are equitably estopped from asserting each and every
14 purported cause of action in the complaint by reason of the acts, the omissions, and conduct of
15 plaintiffs and/or certain of their agents upon which this answering defendant relied to its
16 prejudice and detriment.

17 **TENTH AFFIRMATIVE DEFENSE**

18 11. As a tenth and separate affirmative defense to the complaint, this answering
19 defendant alleges that plaintiffs are barred from recovering on each and every purported cause
20 of action by reason of waiver.

21 **ELEVENTH AFFIRMATIVE DEFENSE**

22 12. As an eleventh and separate affirmative defense to the complaint, this answering
23 defendant alleges plaintiffs are barred from recovering on each and every purported cause of
24 action by virtue of their unclean hands.

25 **TWELFTH AFFIRMATIVE DEFENSE**

26 13. As a twelfth and separate affirmative defense to the complaint, this answering
27 defendant alleges that all of plaintiffs' causes of action are barred because plaintiffs and/or their
28

1 agents had the opportunity to and did fully inspect the product in question and approved of the
2 condition of the product.

3 **THIRTEENTH AFFIRMATIVE DEFENSE**

4 14. As a thirteenth and separate affirmative defense to the complaint, this answering
5 defendant alleges that plaintiffs could have, by the exercise of reasonable diligence, limited or
6 prevented their damages, if any, as a result of the alleged wrongful acts set forth in the
7 complaint and that they have failed or refused to do so. Such failure or refusal on the part of
8 plaintiffs constitute a failure to mitigate their damages.

9 **FOURTEENTH AFFIRMATIVE DEFENSE**

10 15. As a fourteenth and separate affirmative defense to the complaint, this answering
11 defendant alleges that plaintiffs were, at all times, fully apprised of all material facts regarding
12 each and every act alleged in the complaint and that plaintiffs acted or refrained from acting
13 with the full knowledge of all circumstances.

14 **FIFTEENTH AFFIRMATIVE DEFENSE**

15 16. As a fifteenth and separate affirmative defense to the complaint, this answering
16 defendant alleges that all of the work allegedly performed by defendant was performed in a
17 workmanlike manner, which was performed in accordance with all applicable codes,
18 ordinances, and regulations, and was approved by all applicable municipal agencies.

19 **SIXTEENTH AFFIRMATIVE DEFENSE**

20 17. As a sixteenth and separate affirmative defense, this answering defendant alleges
21 that the damages allegedly sustained by plaintiffs were the proximate result of plaintiffs' or
22 others' misuse of the product or subsequent modification, repair and/or maintenance of the
23 product involved.

24 **SEVENTEENTH AFFIRMATIVE DEFENSE**

25 18. As a seventeenth and separate affirmative defense, this answering defendant
26 alleges that all events, happenings, and damages, if any, as set forth in the complaint were the
27 result of an unforeseeable Act of God.

28 ///

EIGHTEENTH AFFIRMATIVE DEFENSE

19. As an eighteenth and separate affirmative defense, this answering defendant alleges that defendant's product was duly inspected, approved and accepted by the plaintiffs, their agents and duly authorized representatives, payment(s) was/were made pursuant to the terms and conditions of any contracts between said persons and this defendant.

NINETEENTH AFFIRMATIVE DEFENSE

20. As a nineteenth and separate affirmative defense, this answering defendant alleges that the losses and damages allegedly sustained by plaintiffs, if any, were proximately caused by the intervening and superseding acts of others, which intervening and superseding acts bar and/or diminish plaintiffs' recovery, if any, against this answering defendant.

TWENTIETH AFFIRMATIVE DEFENSE

21. As a twentieth and separate affirmative defense, this answering defendant alleges that, prior to and at the time of the sale herein, there was attached to the goods a conspicuous writing which clearly informed the buyer in simple and concise language that the goods were being sold pursuant to a limited warranty which is limited to repair and replacement of conditions and/or components covered under the warranty; that the entire risk as to the quality and performance of the goods was with the buyer; and that should the goods prove defective following their purchase, the buyer and not the manufacturer, distributor or retailer assumed the entire cost of all necessary servicing or repair. As a result, defendant effectively disclaimed any implied warranties, including; but not limited to, recovery of consequential damages, the implied warranty of merchantability and implied warranty of fitness for a particular purpose, and by that sale plaintiff effectively waived any such warranty.

TWENTY-FIRST AFFIRMATIVE DEFENSE

22. As a twenty-first and separate affirmative defense, this answering defendant alleges that any defect or nonconformity of which the plaintiffs complain in this matter was proximately caused by the unauthorized or unreasonable use of the goods by the plaintiffs following sale and delivery thereof by defendant to plaintiffs.

///

TWENTY-SECOND AFFIRMATIVE DEFENSE

23. As a twenty-second and separate affirmative defense, this answering defendant alleges that the component parts which are alleged to have been defective were not expressly warranted by this responding party. Therefore, plaintiffs are barred from seeking express warranty damages against this responding party.

TWENTY-THIRD AFFIRMATIVE DEFENSE

24. As a twenty-third and separate affirmative defense, this answering defendant alleges that plaintiffs' cause of action for breach of express warranty and incidental and consequential damages is barred by the express disclaimers and limitations of liability contained in the alleged express warranties made by this defendant.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

25. As a twenty-fourth and separate affirmative defense, this answering defendant alleges that because of plaintiffs' continued use of the vehicle, plaintiffs have waived their right to seek restitution or rescission-type damages against defendant as a matter of law.

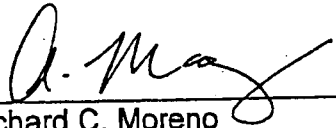
TWENTY-FIFTH AFFIRMATIVE DEFENSE

26. As a twenty-fifth and separate affirmative defense, this answering defendant alleges that plaintiffs have failed to provide defendant with a reasonable opportunity to repair the vehicle, thereby waiving any claim for damages.

DATED: May 16, 2008

MURCHISON & CUMMING, LLP

By:


 Richard C. Moreno
 Anastasia K. Mazzella
 Attorneys for Defendant, FREIGHTLINER
 CUSTOM CHASSIS CORPORATION, sued
 and served herein as DOE 1

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 South Grand Avenue, 9th Floor, Los Angeles, California 90017-4613.

On May 16, 2008, I served true copies of the following document(s) described as **ANSWER TO COMPLAINT ON BEHALF OF FREIGHTLINER CUSTOM CHASSIS CORPORATION** on the interested parties in this action as follows:

SEE ATTACHED LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Murchison & Cumming's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 16, 2008, at Los Angeles, California.


Marian R. Wahlquist

SERVICE LIST

Natoli, et al., vs. Tiffin Motor Homes, Inc., etc., et al.

Douglas C. Sohn, Esq.

Attorneys for Plaintiffs

Sohn & Associates

110 West C Street, Suite 1300

San Diego, CA 92101

Telephone: 619-237-7646

Facsimile: 858-484-3365

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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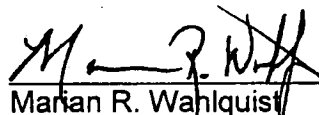
On May 16 2008, I served true copies of the following document(s) described as **NOTICE TO SUPERIOR COURT CLERK OF FILING OF REMOVAL OF ACTION** on the interested parties in this action as follows:

SEE ATTACHED LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Murchison & Cumming's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 16, 2008, at Los Angeles, California.


Marian R. Wahlquist

SERVICE LIST

Natoli, et al., vs. Tiffin Motor Homes, Inc., etc., et al.

Douglas C. Sohn, Esq.

Attorneys for Plaintiffs

Sohn & Associates

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San Diego, CA 92101

Telephone: 619-237-7646

Facsimile: 858-484-3365

1 Richard C. Moreno (SBN 190869)
Anastasia K. Mazzella (SBN 245201)
2 **MURCHISON & CUMMING, LLP**
801 South Grand Avenue, 9th Floor
3 Los Angeles, California 90017-4613
Telephone: (213) 623-7400
4 Facsimile: (213) 623-6336
E-Mail: rmoreno@murchisonlaw.com
5 amazzella@murchisonlaw.com

6 Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
7 and served herein as DOE 1

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN DIEGO
11

12 ROLAND NATOLI and BARBARA
NATOLI individuals,

13 Plaintiffs,

14 vs.

15 TIFFIN MOTOR HOMES, INC., and
16 DOES 1-100, inclusive,

17 Defendants.

CASE NO. 37-2007-00082477-CU-MC-
CTL

**NOTICE TO ADVERSE PARTY RE
REMOVAL OF ACTION TO UNITED
STATES DISTRICT COURT**

Assigned to Hon. William R. Nevitt, Jr.,
Dept. C-64

Action Filed: November 29, 2007
Trial Date: None Set

18
19
20
21 TO PLAINTIFFS ROLAND NATOLI AND BARBARA NATOLI AND TO THEIR COUNSEL OF
22 RECORD:

23 **PLEASE TAKE NOTICE** that a Notice of Removal of Action and Notice of Joinder
24 were filed in the United States District Court for the Southern District of California, on May
25 16, 2008.

26 ///

27 ///

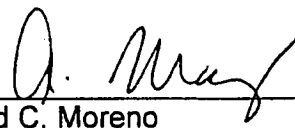
28 ///

1 Copies of the Notice of Removal and Notice of Joinder are attached to this Notice
2 and are served and filed herewith.

3 DATED: May 16, 2008

MURCHISON & CUMMING, LLP

4
5 By:


Richard C. Moreno
Anastasia K. Mazzella
Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
and served herein as DOE 1

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1 Richard C. Moreno (SBN 190869)
rmoreno@murchisonlaw.com
2 Anastasia K. Mazzella (SBN 245201)
amazzella@murchisonlaw.com
3 **MURCHISON & CUMMING, LLP**
801 South Grand Avenue, 9th Floor
4 Los Angeles, California 90017-4613
Telephone: (213) 623-7400
5 Facsimile: (213) 623-6336
6 Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
7 and served herein as DOE 1

8
9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11

12 ROLAND NATOLI and BARBARA
NATOLI individuals,

13 Plaintiffs,

14 vs.

15 TIFFIN MOTOR HOMES, INC., and
16 DOES 1-100, inclusive,

17 Defendants.

CASE NO.

**NOTICE OF JOINDER IN NOTICE
OF REMOVAL OF ACTION**

[28 U.S.C. § 1441(a) and (b)]

(Diversity)

**[Filed Concurrently With Notice of
Removal and Notice of Interested
Parties]**

18
19
20 PLEASE TAKE NOTICE that defendant TIFFIN MOTOR HOMES, INC.
21 hereby joins in defendant FREIGHTLINER CUSTOM CHASSIS CORPORATION'S
22 Notice of Removal of the state court action described in said Notice of Removal.

23 DATED: May 15, 2008

Respectfully submitted,

24 **GATES, O'DOHERTY, GONTER, & GUY**

25
26 By: 

Matthew M. Proudfoot
Attorneys for Defendant, TIFFIN MOTOR
HOME, INC.
27
28

1 DATED: May 15, 2008

MURCHISON & CUMMING, LLP

By: 

Richard C. Moreno
Anastasia K. Mazzella
Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
and served herein as DOE 1

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 South Grand Avenue, 9th Floor, Los Angeles, California 90017-4613.

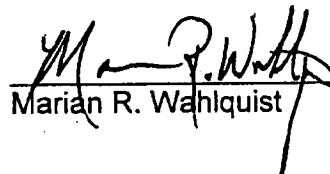
On May 16, 2008, I served true copies of the following document(s) described as **NOTICE OF JOINDER IN NOTICE OF REMOVAL OF ACTION** on the interested parties in this action as follows:

SEE ATTACHED LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Murchison & Cumming's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 16, 2008, at Los Angeles, California.


Marian R. Wahlquist

SERVICE LIST

Natoli, et al., vs. Tiffin Motor Homes, Inc., etc., et al.

Douglas C. Sohn, Esq.

Attorneys for Plaintiffs

Sohn & Associates

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1 Richard C. Moreno (SBN 190869)
2 rmoreno@murchisonlaw.com
3 Anastasia K. Mazzella (SBN 245201)
4 amazella@murchisonlaw.com
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8 Telephone: (213) 623-7400
9 Facsimile: (213) 623-6336

10 Attorneys for Defendant, FREIGHTLINER
11 CUSTOM CHASSIS CORPORATION, sued
12 and served herein as DOE 1

13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA

15 ROLAND NATOLI and BARBARA
16 NATOLI individuals,

17 Plaintiffs,

18 vs.

19 TIFFIN MOTOR HOMES, INC., and
20 DOES 1-100, inclusive,

21 Defendants.

CASE NO.

NOTICE TO UNITED STATES
DISTRICT COURT CLERK OF
REMOVAL OF ACTION; DEMAND
FOR JURY TRIAL

[28 U.S.C. § 1441(a) and (b)]

(Diversity)

[Filed Concurrently With Notice of
Joinder and Notice of Interested
Parties]

22 PLEASE TAKE NOTICE that defendant FREIGHTLINER CUSTOM CHASSIS
23 CORPORATION (hereinafter referred to as "FREIGHTLINER") hereby removes to this
24 Court the state action described below:

25 1. On November 29, 2007, plaintiffs ROLAND NATOLI and BARBARA
26 NATOLI ("plaintiffs") commenced an action in the Superior Court of the State of
27 California, County of San Diego, entitled Roland Natoli and Barbara Natoli v. Tiffin
28 Motor Homes, Inc. and Does 1 through 100, inclusive, Case No. 37-2007-00082477-CU-
MC-CTL.

1 2. On or about December 7, 2007, plaintiffs served defendant TIFFIN MOTOR
2 HOMES, INC. ("TIFFIN") with Summons and Complaint.

3 3. In March of 2008, plaintiffs filed a First Amended Complaint.

4 4. On or about March 17, 2008, plaintiffs filed an Amendment to Complaint
5 designating FREIGHTLINER as "DOE 1." However, plaintiffs did not serve
6 FREIGHTLINER with the DOE Amendment until April 22, 2008.

7 5. On or about April 22, 2008, plaintiffs served FREIGHTLINER with
8 Summons, the DOE Amendment, and the First Amended Complaint. True and correct
9 copies of the Summons, DOE Amendment, and First Amended Complaint are attached
10 hereto and incorporated by reference herein as **Exhibit A**.

11 6. FREIGHTLINER filed an Answer to the First Amended Complaint on May
12 16, 2008 in the above-entitled state court action. A true and correct copy of the Answer is
13 attached hereto and incorporated by reference herein as **Exhibit B**.

14 7. This action is a civil action over which this Court has original jurisdiction
15 under 28 U.S.C. §1332, in that it is a civil action between citizens of different states and
16 the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest
17 and costs. Therefore, pursuant to the provisions of 28 U.S.C. §1441(a), FREIGHTLINER
18 may remove this action to this court.

19 8. Diversity is established when an action "is between citizens of different
20 States." 28 U.S.C. § 1332(a)(1). Pursuant to 28 U.S.C. § 1332(c)(1), "a corporation shall
21 be deemed to be a citizen of any State by which it has been incorporated and of the State
22 where it has its principal place of business." 28 U.S.C. §1332(c)(1).

23 9. At all times relevant to this action and removal, plaintiffs have been citizens
24 of California.

25 10. At all times relevant to this action and removal, corporate defendant TIFFIN
26 has been a citizen of Alabama. TIFFIN was incorporated in Alabama in 1991 and its
27 principal place of business is Alabama. TIFFIN's manufacturing plant and home office
28 are located in Alabama. TIFFIN conducts the bulk of its business and is most noticeably

1 present in Alabama. TIFFIN has joined in this Notice of Removal of Action as indicated
2 in the Notice of Joinder filed concurrently herewith.

3 11. At all time relevant to this action and removal, corporate defendant and
4 removing party FREIGHTLINER has been a citizen of Delaware (state of incorporation)
5 and South Carolina (principal place of business). FREIGHTLINER was incorporated in
6 the state of Delaware in 1995. FREIGHTLINER's manufacturing plant, corporate office,
7 employees, officers, directors, and bank accounts are located in South Carolina.
8 FREIGHTLINER conducts the bulk of its business and is most noticeably present in
9 South Carolina.

10 12. Plaintiffs have not named or served any other defendants in this action, nor
11 have any other defendants appeared in this action to date. The remaining "DOE"
12 defendants are wholly fictitious and sham parties against whom no relief is, or could be,
13 sought in this action. Pursuant to 28 U.S.C. § 1441(a), this Court should disregard the
14 citizenship of any defendant sued under this fictitious name.

15 13. It is apparent from the face of the First Amended Complaint that plaintiffs
16 seek recovery of an amount in excess of \$75,000.00, exclusive of costs and interests.
17 Plaintiffs allege they purchased a motor vehicle that suffered from nonconformities which
18 substantially impaired its use. As a result of said nonconformities, plaintiffs seek
19 replacement of the vehicle or restitution in the following amounts: (1) down payment of
20 \$13, 500; (2) trade-in of \$4, 900; (3) payments in the total amount of \$18, 107.04 as of
21 December 2007 and continuing at the rate of \$1, 131. 69 per month; (4) registration fees in
22 the amount of \$1, 048; and (5) pay off of the loan on the vehicle in the amount of \$165,
23 490.11. Plaintiffs also seek civil penalties available under the California Song-Beverly
24 Act, Civil Code § 1790 et seq. and attorney's fees. (See Plaintiffs' First Amended
25 Complaint, ¶ 10, attached hereto as Exhibit A.)

26 14. FREIGHTLINER has, therefore, met its burden of showing a reasonable
27 probability that the amount in controversy satisfies the federal jurisdictional amount.

28 ///

1 15. This petition is filed with this court within one year of the filing of the action
2 in accordance with 28 U.S.C. § 1446 (b).

3 16. The United States District Court for the Southern District of California
4 embraces the county in which the state court action is now pending. Therefore, this action
5 is properly removed to the Southern District of California pursuant to 28 U.S.C. §
6 93(a)(1).

7 17. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of process, pleadings
8 and orders served by or upon FREIGHTLINER in the state court action are attached as
9 **Exhibits A and B**, and generally as "remainder of state court action."

10 **DEMAND FOR JURY TRIAL**

11 Pursuant to Federal Rule of Civil Procedure 38, defendant FREIGHTLINER
12 CUSTOM CHASSIS CORPORATION hereby demands trial by jury in this action.

13
14 DATED: May 16, 2008

Respectfully submitted,

MURCHISON & CUMMING, LLP

15
16
17 By: 

Richard C. Moreno
Anastasia K. Mazzella
Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION,
sued and served herein as DOE 1

18
19
20 J:\RCM28430\MTN\NOT-REMOVAL-FED CLERK

3
EXHIBIT "A"

ON FIRST
SUMMONS AMENDED COMPLAINT
 (CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

TIFFIN MOTOR HOMES, INC., a Corporation, and DOES 1 through 100,
 inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
 ROLAND NATOLI and BARBARA NATOLI

RECEIVED SUM-100

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

APR 22 2008

APR 16 2008

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp); your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
 (El nombre y dirección de la corte es):

San Diego Superior Court, Central Division
 330 W. Broadway
 San Diego, CA 92101

CASE NUMBER: 37-2007-00082477-
 (Número del Caso) CU-MC-CTI.

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Douglas C. Sohn, SOHN & ASSOCIATES, 619-237-7646
 110 W. C Street, Suite 1300, San Diego, CA 92101

K Brown

DATE:

(Fecha) MAR 13 2008

Clerk, by _____
 (Secretario)

Deputy
 (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
 2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): FREIGHTLINER CUSTOM CHASSIS CORP.

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☐ by personal delivery on (date):

| | | |
|--|-------------------------------|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Please, state bar number, and address): Douglas C. Sohn SBN 82920 SOHN & ASSOCIATES 110 W. C Street, Suite 1300 San Diego, CA 92101 TELEPHONE NO.: 619-237-7646 FAX NO.: 858-759-4299 | | FOR COURT USE ONLY FILED CIVIL BUSINESS OFFICE 14 CENTRAL DIVISION 03 MAR 17 PM 2:54 CLERK-SUPERIOR COURT SAN DIEGO COUNTY, CA |
| ATTORNEY FOR (Name): Plaintiffs ROLAND NATOLI and BARBARA NATOLI SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO <input checked="" type="checkbox"/> HALL OF JUSTICE, 330 W BROADWAY, SAN DIEGO, CA 92101-3827 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081-6843 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5648 | | |
| PLAINTIFF(S) ROLAND NATOLI and BARBARA NATOLI | JUDGE: William R. Nevitt, Jr. | |
| DEFENDANT(S) TIFFIN MOTOR HOMES, INC., et al | DEPT: C-64 | |
| AMENDMENT TO COMPLAINT (CCP 473, 474) | | CASE NUMBER 37-2007-00082477-CU-MC-CTL |

Under Section 474, Code of Civil Procedure:

FICTITIOUS NAME (Court order required once case is at issue. San Diego Superior Court Rules, Division II, rule 2.10)

Plaintiff(s), being ignorant of the true name of a defendant when the complaint in the above-named case was filed, and having designated said defendant in the complaint by the fictitious name of

DOE I

and having discovered the true name of the said defendant to be

FREIGHTLINER CUSTOM CHASSIS CORP.

amends the complaint by inserting such true name in place and stead of such fictitious name wherever it appears in said complaint.

Date: March 12, 2008

DOUGLAS C. SOHN

Attorney(s) for Plaintiff(s)

Under Section 473, Code of Civil Procedure:

NAME - Add or Correct (Court order required)

Plaintiff(s), having designated a ☒ defendant ☐ plaintiff in the complaint by the name ofand having discovered ☐ said name to be incorrect and the correct name is ☐ defendant also uses the name ofamends the complaint by ☐ substituting ☐ adding such name(s) wherever the name of

appears in said complaint.

Date: _____

Attorney(s) for Plaintiff(s)

ORDER

The above amendment to the complaint is allowed.

Date: _____

Judge of the Superior Court

1 Law Offices
2 **Sohn & Associates**
3 Douglas C. Sohn
4 State Bar No. 82920
5 110 West C Street, Suite 1300
6 San Diego, California 92101
7 (619) 237-7646
8 (858) 484-3365 Fax
9 Attorney for Plaintiffs

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN DIEGO**

12 ROLAND NATOLI and BARBARA
13 NATOLI,

14 Plaintiffs,

15 v.

16 TIFFIN MOTOR HOMES, INC., a
17 Corporation, and DOES 1 through 100,
18 inclusive,

19 Defendants.

20 CASE NO: 37-2007-00082477-CU-MC-CTL

21 Judge: William R. Nevitt, Jr.

22 Dept. C-64

23 Complaint Filed: November 29, 2007

24 FIRST AMENDED COMPLAINT FOR
25 RESTITUTION AND DAMAGES (Song-
26 Beverly)

27 JURY TRIAL DEMANDED

28 **FIRST CAUSE OF ACTION**
SONG-BEVERLY ACT
(All Defendants)

PLAINTIFFS ALLEGE:

1. Plaintiffs ROLAND NATOLI and BARBARA NATOLI (hereinafter "Plaintiffs") are, and at all times mentioned herein were, married individuals and buyers or lessees of a consumer good or new motor vehicle as defined in Civil Code Section 1790 et seq..

2. Defendant TIFFIN MOTOR HOMES, INC. (hereinafter "Defendant TIFFIN") is, and at all times mentioned herein was, a corporation qualified to do business in, and doing business in, the State of California, and a manufacturer or distributor of consumer goods as defined in Civil Code Section 1790 et seq..

3. Plaintiffs are ignorant of the true names and capacities of Defendants sued herein as

Law Offices
Sohn &
Associates
110 West C St
Suite 1300
San Diego, CA 92101
(619) 237-7646

Does 1 through 100 and therefore sue said Defendants by such fictitious names. Plaintiffs will seek leave of court to amend this Complaint to allege their true names and capacities when the same becomes known to them. Plaintiffs are informed and believe and thereupon allege that each of said fictitiously named Defendants is responsible in some manner for Plaintiffs' damages as herein alleged.

4. Plaintiffs are informed and believe and thereupon allege that each of the defendants named herein was the agent or employee of each of the other defendants named herein and in doing those things herein alleged was acting within the course and scope of said agency or employment.

5. On or about August 3, 2006, Plaintiffs purchased a 2006 Allegro Bay Recreational Vehicle, VIN 4UZACLBW26CX60514, manufactured or distributed by Defendant TIFFIN (hereinafter "the Vehicle") for which Defendant TIFFIN made one or more express warranties. The Vehicle was a consumer good or new motor vehicle, as defined in Civil Code 1790 et seq.. Attached hereto, for reference only, and marked "Exhibit A" is one of said express warranties.

6. Sometime after purchase, and within the warranty period, the Vehicle began to suffer from nonconformities which substantially impaired the use, value, or safety of the new motor vehicle to Plaintiffs. The nonconformities (hereinafter "the nonconformities") include, but are not limited to, the following: defective leveler jack, defective slideouts, defective engine, defective turbo hose clamp, defective DVD player, defective carpet, defective doors, defective vents, defective tow harness, defective wall paneling, defective radio, defective shower, defective windows, defective chassis charge air cooler.

7. Each of the foregoing defects was covered by one or more express warranties made by Defendant TIFFIN, including, but not limited to, Exhibit A.

8. Within the past four years, Plaintiffs delivered the Vehicle to Defendant TIFFIN's service and repair facility within the County of San Diego, for service or repair of the nonconformities.

9. Despite a reasonable number of attempts, and despite more than 30 days out of service, Defendant TIFFIN's service and repair facility has been unable to service or repair the

1 Vehicle to conform to the express warranty or warranties given by Defendant TIFFIN.

2 10. As a result, Plaintiffs are entitled to replacement of the Vehicle, or restitution, in the
3 following amounts: down payment of \$13,500, trade-in of \$4,900, payments in the total amount
4 of \$18,107.04 as of December, 2007 and continuing at the rate of \$1,131.69 per month, 2008
5 registration in the amount of \$1,048.00 and continuing annually, and pay off of the loan on the
6 Vehicle in the approximate amount of \$165,490.11. Plaintiffs will amend this complaint to
7 allege said amounts more particularly when they become known to them, or according to proof
8 at the time of trial.

9 11. As a further result, Plaintiffs have incurred incidental damages in an amount as yet
10 unascertained. Plaintiffs will amend this complaint to allege said amount when it becomes
11 known to them, or according to proof at the time of trial.

12 12. As a further result, Plaintiffs have incurred consequential damages in an amount as
13 yet unascertained. Plaintiffs will amend this complaint to allege said amount when it becomes
14 known to them, or according to proof at the time of trial.

15 13. Defendant TIFFIN willfully failed to promptly repurchase or replace the Vehicle
16 when request was made therefor, and Plaintiffs are entitled thereby to a civil penalty in the
17 amount of twice Plaintiffs' actual damages.

18 14. Plaintiffs have incurred attorney's fees and costs in bringing the within action
19 pursuant to Civil Code Section 1790 et seq., in amount as yet unascertained. Plaintiffs will
20 amend this complaint to allege said amount when it becomes known to them, or according to
21 proof at the time of trial.

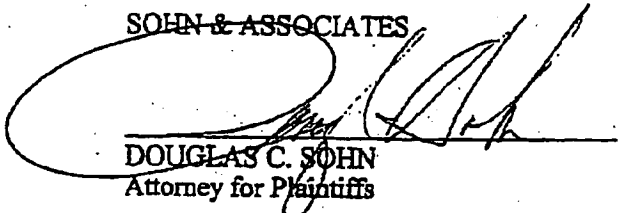
22 WHEREFORE, Plaintiffs pray judgment against Defendants, and each of them, as
23 follows:

- 24 1. Replacement of the Vehicle or restitution;
- 25 2. Incidental damages according to proof;
- 26 3. Consequential damages according to proof;
- 27 4. Civil penalty;
- 28 5. Attorney's fees;

6. Costs of suit;
7. Pre-judgment and post-judgment interest at the lawful rate; and,
8. Such other and further relief as the Court may deem just and proper.

DATED: March 5, 2008

SOHN & ASSOCIATES


DOUGLAS C. SOHN
Attorney for Plaintiffs

PART I. NEW VEHICLE BASIC WARRANTY

1. COVERAGE TO PURCHASER. This limited warranty (Limited Warranty) applies to the first purchaser (Purchaser) and does not apply to an owner other than the Purchaser. This Limited Warranty also does not apply to any rental or leased unit, or to any unit used in whole or in part for a commercial purpose.

2. WARRANTY PERIOD AND REMEDIES. Tiffin Motorhomes, Inc. (Tiffin) warrants that the portions of the vehicle which Tiffin manufactures or assembles shall be free from defect (Defect) in material and workmanship for the period beginning on the date of purchase and continuing for one (1) year from the date of purchase, or twelve thousand (12,000) miles, whichever occurs first (the Warranty Period). The date of purchase shall be the date that the vehicle is delivered to you.

In the event of a covered Defect during the Warranty Period, Tiffin will repair the defect or, at its option, replace parts as necessary at no charge to Purchaser, except for the items which are specifically excluded below. These are Purchaser's sole and exclusive remedies. This Limited Warranty applies only to the covered portion of the vehicle and any of its parts supplied or manufactured by Tiffin, which are defective at the time of purchase or become defective during normal use during the Warranty Period. The Defect must occur under normal use of the vehicle during the Warranty Period.

This warranty does not apply to items and parts not manufactured or supplied by Tiffin, nor to items purchased, manufactured or installed outside the Tiffin's factory. Except as provided in this Warranty, the entire risk as to the quality and performance of the vehicle is with the Purchaser.

3. ITEMS COVERED. This warranty covers the steel or aluminum frame super structure including wall paneling, decor board, headliner, foam insulation, fiberglass skin, rubber roof, and all other parts of the Hydra-Vac walls and roof. This warranty also covers the following list of equipment, some of which may also come with warranties from their respective manufacturers:

| | |
|------------------------|------------------------|
| Air Conditioner (dash) | Water Heater |
| Air Conditioner (roof) | Carpet |
| T.V. Antenna | Cushion Foam |
| Converter (110-12V) | Compartment Doors |
| Water Pump | Driver/Passenger Seats |
| Furnace | Electrical Systems |
| L.P. Gas Bottle | Cushion Fabric |
| Power Range Hood | Fire Extinguisher |
| Pre-finished Paneling | Faucets |
| Range | Light Fixtures |
| Refrigerator | Plumbing System |
| Sink | Switches |
| Stereo | Shower Door |
| Vacuum Cleaner | Vinyl |
| Showerhead | Sealants |
| L.P Gas Valves | Windows |
| Interior and Exterior | Fuses |
| Toilet | |

1 **PROOF OF SERVICE BY MAIL**

2

3 I declare that I am employed in the County of San Diego, State of California, that I am

4 over the age of eighteen years and not a party to the within action, and that my business address

5 is 110 W. C Street, Suite 1300, San Diego, CA 92101.

6 I am readily familiar with the firm's practice of collection and processing of

7 correspondence for mailing with the United States Postal Service. Under that practice, it

8 would, in the ordinary course of business, be deposited, with first class postage fully prepaid

9 thereon, with the United States Postal Service that same day pursuant to Code of Civil

10 Procedure Section 1013a. I am aware that on a motion of party served, service is presumed

11 invalid if postal cancellation date or postage meter date is more than one day after date of

12 deposit for mailing affidavit.

13 On March 5, 2008, I served the foregoing FIRST AMENDED COMPLAINT FOR

14 RESTITUTION AND DAMAGES on the interested parties in this action by placing a true copy

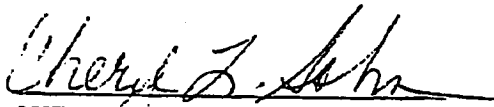
15 thereof, enclosed in a sealed envelope, addressed as follows, for collection and mailing on that

16 date, following ordinary business practices:

17 Matthew M. Proudfoot, Esq.
 18 GATES, O'DOHERTY, GONTER & GUY
 19 15635 Alton Parkway, Suite 260
 Irvine, CA 92618

20 I declare under penalty of perjury that the foregoing is true and correct.

21 Executed this 5th day of March, 2008, at San Diego, California.

22 

23 CHERYL L. SOHN

24

25

26

27 Law Offices
 Sohn &
 Associates
 110 West C St
 Suite 1300
 San Diego, CA 92101
 (619) 237-7646

28

EXHIBIT B

1 Richard C. Moreno (SBN 190869)
Anastasia K. Mazzella (SBN 245201)
2 **MURCHISON & CUMMING, LLP**
801 South Grand Avenue, 9th Floor
3 Los Angeles, California 90017-4613
Telephone: (213) 623-7400
4 Facsimile: (213) 623-6336
E-Mail: rmoreno@murchisonlaw.com
5 amazella@murchisonlaw.com

6 Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
7 and served herein as DOE 1

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO

10
11 ROLAND NATOLI and BARBARA
NATOLI individuals,

12 Plaintiffs,

13 vs.

14 TIFFIN MOTOR HOMES, INC., and
15 DOES 1-100, inclusive,

16 Defendants.

CASE NO. 37-2007-00082477-CU-MC-
CTL

ANSWER TO FIRST AMENDED
COMPLAINT ON BEHALF OF
FREIGHTLINER CUSTOM CHASSIS
CORPORATION

Assigned to Hon. William R. Nevitt, Jr.,
Dept. C-64

Action Filed: November 29, 2007
Trial Date: None Set

17
18
19 Defendant FREIGHTLINER CUSTOM CHASSIS CORPORATION, for itself and itself
20 alone, in answer to plaintiffs' First Amended Complaint ("Complaint") on file herein, admits,
21 denies and alleges as follows:

22 **GENERAL DENIAL**

23 1. By virtue of and pursuant to the provisions of Code of Civil Procedure section
24 431.30, this answering defendant generally and specifically denies each and every, all and
25 singular, conjunctively and disjunctively, allegation contained in said Complaint, and each and
26 every part thereof, and each and every cause of action thereof, and further specifically denies
27 that plaintiff has been injured or damaged in the sum alleged, or in any other sum, or at all, by
28 reason of any carelessness, negligence, act or omission of this answering defendant.

1 **FIRST AFFIRMATIVE DEFENSE**

2 2. As a first and separate affirmative defense to the complaint, this answering
3 defendant alleges that each cause of action is barred by the applicable statute of limitations.

4 **SECOND AFFIRMATIVE DEFENSE**

5 3. As a second and separate affirmative defense to the complaint, this answering
6 defendant alleges that each of the causes of action fails to set forth facts sufficient to constitute
7 a cause of action against this answering defendant.

8 **THIRD AFFIRMATIVE DEFENSE**

9 4. As a third and separate affirmative defense to the complaint, this answering
10 defendant alleges that plaintiffs are barred from proceeding with said causes of action for failure
11 to provide the requisite notice to defendant regarding their warranty claims.

12 **FOURTH AFFIRMATIVE DEFENSE**

13 5. As a fourth and separate affirmative defense to the complaint, this answering
14 defendant alleges that plaintiffs lack standing to sue and are not in privity with defendant.

15 **FIFTH AFFIRMATIVE DEFENSE**

16 6. As a fifth and separate affirmative defense to the complaint, this answering
17 defendant alleges that plaintiffs and/or their agents acted negligently, recklessly, or intentionally
18 in and about the matters alleged herein and to the extent that plaintiffs seek recovery for the
19 alleged negligence, reckless and/or intentional acts and/or omissions of this answering
20 defendant, recovery should be offset to the extent of plaintiffs' own negligent, reckless, and/or
21 intentional actions and/or omissions.

22 **SIXTH AFFIRMATIVE DEFENSE**

23 7. As a sixth and separate affirmative defense to the complaint, this answering
24 defendant alleges that plaintiffs' damages, if any, were proximately caused by the negligent,
25 reckless, or intentional acts of third parties as to whom this answering defendant had neither
26 the right nor the duty nor the opportunity to exercise control and who acted without the
27 knowledge, participation, approval, or ratification of this answering defendant.

28 ///

1 **SEVENTH AFFIRMATIVE DEFENSE**

2 8. As a seventh and separate affirmative defense to the complaint, this answering
3 defendant alleges that plaintiffs are guilty of unreasonable delay in filing suit herein, which delay
4 has caused prejudice to this answering defendant and that, therefore, this action is barred by
5 laches.

6 **EIGHTH AFFIRMATIVE DEFENSE**

7 9. As an eighth and separate affirmative defense to the complaint, this answering
8 defendant alleges that plaintiffs are barred from asserting each and every purported cause of
9 action in the complaint by reason of plaintiffs and their agents having ratified, consented, and
10 approved the alleged wrongful acts and/or omissions of this answering defendant.

11 **NINTH AFFIRMATIVE DEFENSE**

12 10. As a ninth and separate affirmative defense to the complaint, this answering
13 defendant alleges that plaintiffs are equitably estopped from asserting each and every
14 purported cause of action in the complaint by reason of the acts, the omissions, and conduct of
15 plaintiffs and/or certain of their agents upon which this answering defendant relied to its
16 prejudice and detriment.

17 **TENTH AFFIRMATIVE DEFENSE**

18 11. As a tenth and separate affirmative defense to the complaint, this answering
19 defendant alleges that plaintiffs are barred from recovering on each and every purported cause
20 of action by reason of waiver.

21 **ELEVENTH AFFIRMATIVE DEFENSE**

22 12. As an eleventh and separate affirmative defense to the complaint, this answering
23 defendant alleges plaintiffs are barred from recovering on each and every purported cause of
24 action by virtue of their unclean hands.

25 **TWELFTH AFFIRMATIVE DEFENSE**

26 13. As a twelfth and separate affirmative defense to the complaint, this answering
27 defendant alleges that all of plaintiffs' causes of action are barred because plaintiffs and/or their
28

1 agents had the opportunity to and did fully inspect the product in question and approved of the
2 condition of the product.

3 **THIRTEENTH AFFIRMATIVE DEFENSE**

4 14. As a thirteenth and separate affirmative defense to the complaint, this answering
5 defendant alleges that plaintiffs could have, by the exercise of reasonable diligence, limited or
6 prevented their damages, if any, as a result of the alleged wrongful acts set forth in the
7 complaint and that they have failed or refused to do so. Such failure or refusal on the part of
8 plaintiffs constitute a failure to mitigate their damages.

9 **FOURTEENTH AFFIRMATIVE DEFENSE**

10 15. As a fourteenth and separate affirmative defense to the complaint, this answering
11 defendant alleges that plaintiffs were, at all times, fully apprised of all material facts regarding
12 each and every act alleged in the complaint and that plaintiffs acted or refrained from acting
13 with the full knowledge of all circumstances.

14 **FIFTEENTH AFFIRMATIVE DEFENSE**

15 16. As a fifteenth and separate affirmative defense to the complaint, this answering
16 defendant alleges that all of the work allegedly performed by defendant was performed in a
17 workmanlike manner, which was performed in accordance with all applicable codes,
18 ordinances, and regulations, and was approved by all applicable municipal agencies.

19 **SIXTEENTH AFFIRMATIVE DEFENSE**

20 17. As a sixteenth and separate affirmative defense, this answering defendant alleges
21 that the damages allegedly sustained by plaintiffs were the proximate result of plaintiffs' or
22 others' misuse of the product or subsequent modification, repair and/or maintenance of the
23 product involved.

24 **SEVENTEENTH AFFIRMATIVE DEFENSE**

25 18. As a seventeenth and separate affirmative defense, this answering defendant
26 alleges that all events, happenings, and damages, if any, as set forth in the complaint were the
27 result of an unforeseeable Act of God.

28 *W*

1 **EIGHTEENTH AFFIRMATIVE DEFENSE**

2 19. As an eighteenth and separate affirmative defense, this answering defendant
3 alleges that defendant's product was duly inspected, approved and accepted by the plaintiffs,
4 their agents and duly authorized representatives, payment(s) was/were made pursuant to the
5 terms and conditions of any contracts between said persons and this defendant.

6 **NINETEENTH AFFIRMATIVE DEFENSE**

7 20. As a nineteenth and separate affirmative defense, this answering defendant
8 alleges that the losses and damages allegedly sustained by plaintiffs, if any, were proximately
9 caused by the intervening and superseding acts of others, which intervening and superseding
10 acts bar and/or diminish plaintiffs' recovery, if any, against this answering defendant.

11 **TWENTIETH AFFIRMATIVE DEFENSE**

12 21. As a twentieth and separate affirmative defense, this answering defendant alleges
13 that, prior to and at the time of the sale herein, there was attached to the goods a conspicuous
14 writing which clearly informed the buyer in simple and concise language that the goods were
15 being sold pursuant to a limited warranty which is limited to repair and replacement of
16 conditions and/or components covered under the warranty; that the entire risk as to the quality
17 and performance of the goods was with the buyer; and that should the goods prove defective
18 following their purchase, the buyer and not the manufacturer, distributor or retailer assumed the
19 entire cost of all necessary servicing or repair. As a result, defendant effectively disclaimed any
20 implied warranties, including, but not limited to, recovery of consequential damages, the implied
21 warranty of merchantability and implied warranty of fitness for a particular purpose, and by that
22 sale plaintiff effectively waived any such warranty.

23 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

24 22. As a twenty-first and separate affirmative defense, this answering defendant
25 alleges that any defect or nonconformity of which the plaintiffs complain in this matter was
26 proximately caused by the unauthorized or unreasonable use of the goods by the plaintiffs
27 following sale and delivery thereof by defendant to plaintiffs.

28 ///

TWENTY-SECOND AFFIRMATIVE DEFENSE

23. As a twenty-second and separate affirmative defense, this answering defendant alleges that the component parts which are alleged to have been defective were not expressly warranted by this responding party. Therefore, plaintiffs are barred from seeking express warranty damages against this responding party.

TWENTY-THIRD AFFIRMATIVE DEFENSE

24. As a twenty-third and separate affirmative defense, this answering defendant alleges that plaintiffs' cause of action for breach of express warranty and incidental and consequential damages is barred by the express disclaimers and limitations of liability contained in the alleged express warranties made by this defendant.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

25. As a twenty-fourth and separate affirmative defense, this answering defendant alleges that because of plaintiffs' continued use of the vehicle, plaintiffs have waived their right to seek restitution or rescission-type damages against defendant as a matter of law.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

26. As a twenty-fifth and separate affirmative defense, this answering defendant alleges that plaintiffs have failed to provide defendant with a reasonable opportunity to repair the vehicle, thereby waiving any claim for damages.

DATED: May 16, 2008

MURCHISON & CUMMING, LLP

By: 

Richard C. Moreno
Anastasia K. Mazzella
Attorneys for Defendant, FREIGHTLINER
CUSTOM CHASSIS CORPORATION, sued
and served herein as DOE 1

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 South Grand Avenue, 9th Floor, Los Angeles, California 90017-4613.


On May 16, 2008, I served true copies of the following document(s) described as **ANSWER TO COMPLAINT ON BEHALF OF FREIGHTLINER CUSTOM CHASSIS CORPORATION** on the interested parties in this action as follows:

SEE ATTACHED LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Murchison & Cumming's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 16, 2008, at Los Angeles, California.


Marian R. Wahlquist

SERVICE LIST

Natoli, et al., vs. Tiffin Motor Homes, Inc., etc., et al.

Attorneys for Plaintiffs

Douglas C. Sohn, Esq.
Sohn & Associates
110 West C Street, Suite 1300
San Diego, CA 92101
Telephone: 619-237-7646
Facsimile: 858-484-3365

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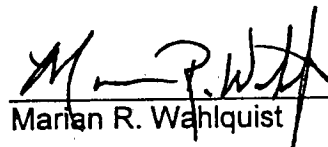
On May 16, 2008, I served true copies of the following document(s) described as **NOTICE TO UNITED STATES DISTRICT COURT CLERK OF REMOVAL OF ACTION; DEMAND FOR JURY TRIAL** on the interested parties in this action as follows:

SEE ATTACHED LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Murchison & Cumming's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 16, 2008, at Los Angeles, California.


Marian R. Wahlquist

SERVICE LIST

Natoli, et al., vs. Tiffin Motor Homes, Inc., etc., et al.

Douglas C. Sohn, Esq.

Attorneys for Plaintiffs

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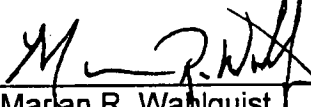
On May 16, 2008, I served true copies of the following document(s) described as **NOTICE TO ADVERSE PARTY RE REMOVAL OF ACTION TO UNITED STATES DISTRICT COURT** on the interested parties in this action as follows:

SEE ATTACHED LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Murchison & Cumming's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 16, 2008, at Los Angeles, California.


Marian R. Wahlquist

SERVICE LIST

Natoli, et al., vs. Tiffin Motor Homes, Inc., etc., et al.

Douglas C. Sohn, Esq.

Attorneys for Plaintiffs

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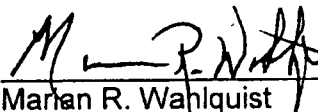
On May 16 2008, I served true copies of the following document(s) described as **CERTIFICATE OF SERVICE OF NOTICE TO ADVERSE PARTY AND NOTICE TO STATE SUPERIOR COURT OF REMOVAL TO FEDERAL COURT** on the interested parties in this action as follows:

SEE ATTACHED LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Murchison & Cumming's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on May 16 2008, at Los Angeles, California.


Marian R. Wahlquist

SERVICE LIST

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